OFFICE OF THE REGISTRAR OF BOOKS
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THE MADRAS LEGISLATIVE COUNCIL.

His Excellency the Governor in a prefatory speech at the Council meeting of the 12th instant gave the reasons why the interpellations which had been received late had to be ruled out. His Excellency was within his rights under the rules and he need not have taken any pains to justify the course adopted; but all the same every one will appreciate the grace and courtesy which induced him to do so. He also pointed out clearly to the Honorable Members the labour that is caused in the various Secretariat offices by the asking of questions in the Council. In the face of the probability of the increase in the number of questions now more time was necessary for accurate and ample answers to questions of the Honorable Members. Considerable number of questions were ruled out this time as the Council was to meet again shortly and His Excellency asked the members whose questions had been so disallowed to re-submit them without delay and he also drew the attention of the members to the rules which regulated the asking and framing of questions.

His Excellency then impressed upon the necessity to confine the business at that Meeting solely and wholly to the discussion of the revised Financial statement reserving the questions and resolutions of a general nature to the meeting of the 5th April next. He made it clear that there was no desire on his part to burke discussion or to hinder the Honorable members in their desire to bring forward those matters. There were only two Resolutions, which were ruled to be in order, on the statement of business standing in the names of the Honorable Messrs. Krishnan Nair and Shunmugam Pillai. After the Honorable Mr. Atkinson presented the Revised Financial Statement, the Honorable Mr. Krishnan Nair moved his Resolution, *viz*:

'That this Council recommends that the pay of all whole-time servants of Government on Civil establishments who are now receiving compensation for dearness of food be permanently enhanced by the amount of such compensation.'

The Hon. Mr Atkinson in opposing the Resolution said that there were three consequences which would flow from it. *First* if the compensation was made permanent, under the compensation rules laid down in the Civil Account Code, article 72, the effect of the present proposal would be a second or double compensation allowance. *Secondly* the Hon. Member

asked whether those Government servants in Districts where no compensation was allowed were to be excluded and *Thirdly* he said there was no principle which would justify the annual recurring expenditure of 11·33 lacs. He said it was a thoroughly mistaken idea to think that the matter could be disposed of by Government in an arbitrary way and that it was purely at the good will of Government. Personably and officially the members of Government were not unsympathetic but then there were other considerations. The pay which Government offered did not fail to attract candidates. If Government were to pay at a higher rate than private employers they may as well require the Government to buy their commodities in the market at a higher rate. He did not feel that the Council would hold that the Government were otherwise than generous. During the last two years they had given considerable increases in the rates of pay. Their duty was to protect the general tax-payer not any particular branch of the population of the country. The motion was lost by 8 against 30, 8 remaining nentral.

Many questions were put and answered.

To a question put by the Hon. Mr. Kameswara Rao Naidu as to whether any Civilian Revenue Division in the Presidency had the same Divisional officer continuously for the last three years, the answer literally was in the negative but two with short intervals were said to have been connected with their divisions since 1904.

With reference to a question about the separation of the Judicial and Executive functions by the Hon. Mr Perraju Pantulu it was said that this Presidency had already a considerable degree of such a system of separation owing to the appointment and work of stationary Sub-Magistrates. The Government were not prepared to go further in that direction until the scheme had been tried in the two Bengals and experience obtained of its working there. Another question brought out the interesting fact that the question of appointing sufficient number of Honorary Presidency Magistrates for Madras was already under consideration.

The Hon, Mr. Seshagiri Aiyar's questions about the articles in the *Madras Times* elicited the fact that the attention of the Government had been drawn to them and that the Government had conveyed to the Editor of the paper an expression of their disapproval of the articles and do not intend to take further action in regard thereto.

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Commenting on the said matter last referred to above, the *Hindu* says 'we congratuluate our Anglo-Indian contemporary on its having been allowed to escape this time with a whole skin, although doubtless its teeth have been drawn to some extent . . . It must be said, however, as we can testify to its credit, that our Anglo-Indian contemporary seems to have been consciously endeavouring, since this unpleasant episode In its career, to adopt a more chastened spirit and more sober language in writing about things Indian. May we hope that this state of things will continue ?'

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In a short article headed 'Interpellations in Council' the *Madras Mail* of the 11th inst., says that something will have to be done to limit the number of questions. It says :—Interpellations made with discretion may and often do serve a useful purpose ; but the indiscriminate bombardment of Government with questions, sometimes at the *dictation* of a grievous-monger with an axe of his own to grind, does not serve any good purpose.' That the *Mail* should write in this

spirit grieves us most. Even His Excellency has not found fault with either the number of the questions or their nature. He has on the other hand requested the members, whose questions he had to rule out at this meeting to resubmit them without delay.

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VOTES FOR SALE.

Our venerable the Hon: Dewan Bahadur Ragunatha Rao has brought to the notice of some of the daily papers the fact that during the election of members of a Local Board, votes were actually purchased for Rs. 5 to 20 each. This is not the first time that we have heard of such a sale of votes, though this is certainly the first time perhaps when the matter has been communicated to the Press by such a responsible person as our Dewan Bahadur. A person who has himself stood as a candidate for a seat on a Local or District Board or a Municipal Council or worked on behalf of a friend who was a candidate for a seat on those bodies could give any number of instances of such corruption. The worst of it is that it is such a difficult matter to bring the guilt home to the offenders, especially as it is next to impossible to get the man who paid the bribe to speak the truth; for the law as it stands is quite impartial and punishes both the giver and the taker. We have known many cases where just worthy and upright men persuaded, in their weak moments by some of their friends, to stand as candidates for seats in these 'self-governing bodies', when they heard of this corruption declined absolutely to go and canvass for votes with the result that other candidates, not quite so scrupulous, got in by big majorities. Can any one acquainted with Mofussil elections truly and honestly say that corruption, though not always of this kind, does not exist? When people who have heard or read of the particular corruption now brought to light express pious horror at its existence it can only be said that they do not know of the questionable tactics adopted at these 'elections'. A Local Daily commenting upon this incident says that nothing is calculated to give us a lower opinion of him who seeks the vote and of him who *sells* it under the ignoble conditions. We are not aware if there be any noble conditions under which there could be a *sale* of votes.

There are numerous ways in which votes are sought to be secured. Not necessarily always is money paid for or by the candidate. For instance when a voter is indebted to another the candidate or somebody in his behalf gets hold of the voter's creditor and some *gentle pressure* is brought to bear upon the voter. Even if the poor devil had already promised his vote to the rival candidate he has no option but to break the promise when the creditor threatens to sue him at once

If the voter is a poor clerk his manager or other superior officer is requested just to give a hint that he (the clerk) would do well to vote for the officer's friend. If he is a grocer or other tradesman, his best customer is brought to use his influence. It is unnecessary to multiply such instances.

Lately there was an instance when a friend of a certain candidate addressing a meeting of the voters enumerated, among other advantages that the voters would derive by electing his friend, the advantage that they could at all times go to his friend and make known their wants without any hindrance because his friend lived in a house and possessed no dogs, whereas the rival candidate was living in a bungalow and had dogs in the compound!

It is idle to blame the poor voters for not possessing high ideals of public duty. Accepting a bribe because it was offered can never be an excuse. But the persons who are most to blame are those candidates who offer or pay bribes in return for the votes. They cannot be said to be ignorant. Nor can they be said not to possess some idea of their public duty. Perhaps at a future time they expect to become members of Council, for, becoming a member of a Local or District Board or a Municipal Council is, especially now, only the first step which is fondly hoped would ultimately lead to the Council Chamber.

It would be very interesting if some of our City Fathers were to give out their individual experiences of the electioneering methods adopted by their rivals; and perhaps the experiences of the unsuccessful candidates of the methods of their successful rivals would be more interesting still, though we may take it for granted that it would be impossible to fear that there could be any disclosures of an ugly nature in a Presidency Town like Madras.

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THE INDIA COUNCIL.

Mr. Mirza Abbas Ali Beg, the Dewan of the Junagadh State has been appointed by the Secretary of State on the India Council in succession to Mr. Syed Hussain Bilgrami.

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THE IMPERIAL COUNCIL.

The election of Khan Bahadur Ahmad Mohideen Sahib having been declared void another is to be held next month to fill up the vacancy.

Khan Bahadur Ghulam Mahomed Mahajir, Subadar-Major Mir Abbas Bahadur (retired) and the Prince of Arcot have so far been announced as candidate for the vacant seat. If it be a fact that the Prince of Arcot is willing to be elected to the Imperial Council there cannot be the least question that it will be best selection that could be made by our Mahommadan brethren and in the light of this fact it is to be earnestly hoped that the other two candidates will see their way to withdraw, so that the Prince may be elected unopposed.

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EXECUTIVE COUNCILS.

BOMBAY.—Mr. Mahadev Bhaskar Chaubal B.A., L.L.B., Government Pleader High Court, Bombay, has been appointed Fourth Member of the Bombay Council.

MADRAS.—The Raja of Bobbili has been made Third Member of the Madras Council. If it is an 'experiment' we hope that it will prove to be a successful one. Anyhow we are glad that an Indian has now a seat on the Executive Council.

We hope the first experiment will not prove a failure as is feared by many.

Some months ago there was a very strong rumour that Mr. Justice Sankaran Nair was to be appointed as the first Indian Executive Member. Unfortunately the rumour has proved false.

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MRS. ANNIE BESANT.

It is indeed gratifying to learn that the Government do not intend moving any further in the matter of the publication of the Appeal to Europeans by Mrs. Besant in the Central Hindu College Magazine.

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THE 'ENGLISHMAN' LIBEL CASE.

On appeal their Lordships, Messrs. Justices Harrington and Woodroffe have held that the articles in the *Englishman* about Lala Lajput Rai were libellous but have reduced the amount of damages awarded by Mr. Justice Fletcher *viz.*, Rs. 15,000 to Rs. 1500.

OFFICE OF THE REGISTRAR OF BOOKS, REGISTERED 20 JUN 1910 MADRAS.

The Hon : Mr N. Subba Rao is said to have given notice of a question at the Imperial Council as to the cost of the annual Simla Exodus and whether it is to be curtailed. There have been numerous letters about the same subject in the Indian papers. What about the Ooty Exodus ?

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ABOLITION OF LEGAL PRACTICE.

The Faridkote State is said to have, in the interest of the State and its subjects, abolished the practice of pleaders in the state courts and decided not to grant or renew any license for legal practice from the beginning of the year 1967 Bikrami. Pleaders of the state have thus until March 20th next to make other arrangements for their livelihood.

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Sometime ago there was a Notice published in some of the Calcutta papers which we give below.

'CORPORATION OF CALCUTTA.

NOTICE.

The public are hereby informed that a complaint Register is kept at each District Office and all complaints relating to defective Conservancy, Lighting, Drainage and those which relate to the work of Engineering, Health and Building Department and are local in character should be entered therein. The District Officers have strict instructions to inspect the Register regularly every day and to attend promptly to the several matters complained of.

'Complaints can be entered on any working day during the ordinary office hours, at the following District Offices :—'

and here followed the names of the various Offices.

Here in Madras when any complaint has to be made one has to be on the look out for a Sanitary Inspector or Overseer who may or may not be found when you want him. Or one has to write or complain to the Commissioner of his Division about the matter and the communication or complaint may or may not be attended to promptly. Even the educated and the well-to-do often find it very difficult to have their wants attended to promptly and it cannot be denied that the lot of the poor must be rather hard.

We would therefore draw the particular attention of our President and City Fathers to the above Notice of the Calcutta Corporation and suggest that a similar system as is observed in Calcutta may with great advantage be adopted by the Madras Corporation.

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THE ART OF ADVERTISEMENT.

A discoverer, an inventor or a manufacturer must first give a suitable name to what he discovers, invents or manufactures in order that it may be made known to the public. The process of popularizing the name and the name-giver is commonly called advertisement. But the word in its broad sense means whatever is made known to others—no matter how. The discoverers of religious truths promulgated what they discovered by preaching and their primary purpose was to instruct and improve their fellowmen. Profound thinkers and scientific discoverers imparted what they knew by lecturing and writing books. But before printing was invented, tradesmen and manufacturers found it very difficult to make their commodities known to the people of distant countries. Caravans had to go to remote cities to find a suitable market for their goods. Tedious and dangerous was the process of advertisement in those days. But from the dawn of modern civilization to our own times when it has attained its noon-day splen-

dour, advertisement made progress by leaps and bounds. Indeed it has become a marvellously remarkable art in these days. The press with its advertisements has a strong irresistible tendency to make the various races and nations of the world truly interdependent upon each other; and this state of things is, no doubt, due to other causes equally weighty—such as facilities afforded by the subjugation of the natural forces by science in the shape of railways, steamships, telegraphs, cablegrams and a host of other appliances of scientific discoveries. The external conditions of modern life have become such that we cannot do without advertisement. We cannot ply our trade, whatever it be, without advertising ourselves more or less. It should not be supposed for a moment that advertisement is to be found only in newspapers, journals, almanacks, calendars, catalogues, hand bills, circulars, tracts, and Invitation cards &c., As a matter of fact there is no place where it is not. It is found in churches, temples, mosques, in clubs, in lodges, in entertainments, public or private, in horse races, in tournaments, in exhibitions, in elections, in festive fairs, in the celebration of auspicious and inauspicious ceremonies, and in short anywhere and everywhere where any two or more persons may meet together. It is found even in our conversations, in our speeches, in our 'candid confessions'; in our gait, dress, equipage, jewels and ornaments, furniture, food, drink and in fact in everything we call ours. It has become a *sine qua non* of our modern life. It is an irony of fate that this beautiful rose of necessity should possess the cankerous worm of cant concealed beneath its petals; the air we breathe often deceives us by its calm; so doth the water we drink by its sweetness; the food by its deliciousness; and advertisement by the blaze of its beauty.

Advertisement is not merely an art, but a fine art, for it satisfies all the requirements of a fine art. The Muses lament that in this age-the most practical History has ever seen—very few people care for them. But is poetry really gone? It will be found on examination that an advertiser consciously or unconsciously pays homage to the Muses and is both a poet and painter blended in one. For this purpose, let us take some good specimen of modern advertisement and closely see whether it possesses all the requisite elements of a fine art. Behold the specimen! The facts of this particular case are briefly these :—Here is a manufacturer of cigars which are really excellent but costly in the making of them; the sale price may seem prohibitive to buyers of limited means; yet he wants to make the business a profitable concern; he christens his brand of cigars 'Bahadur'—a name plainly indicating that it is a scion of a true aristocracy; the brand of cigars with this name labelled to it becomes a person—a citizen of the commercial world capable of maintaining its own personal identity anywhere and everywhere irrespective of the vicissitude of its fortunes and the changes that may come over it; this new-born citizen is the hero; with the inimitable pencil of a true artist the advertiser depicts a lif like portrait of the hero's character. Lo! the smoker's face beaming with the smile of satisfaction and whiffing slowly the smoke out of his mouth, these are the simple facts of the case, and they irresistibly point to the conclusion that the adveritiser in question possesses not only deep insight into the kernel of the matter (i.e.) profit in business, but also the rare gifts of depth of creative power and of sublime imagination. A further question arises here, are these qualities enough to make him a poet? The leading case on the subject is '*re* Art,' decided by Aristotle and his

decision has not yet been over-ruled. He founded poetry and the other arts on imitation; and Oliver Goldsmith following the Stagirite says in his judgment 'it is the business of an art to imitate nature'. On a careful consideration of all the authorities on the subject we think that the specimen we have examined is poetry, for poetry according to the poets themselves is a true portrait of nature and the best of painters are its true imitators. We therefore unhesitatingly record a finding that modern advertisement is the true heir and successor of poetry and painting.

This new art furnishes us with instances of different kinds of poetry. Here is an epic. It is a medical almanack quite artistic both in design and get-up sent to us unasked oversea. With strict fidelity to nature it gives a vivid picture of the grand fight between Life and Health on the one hand, and Death and Disease on the other. Life sends various generals to the battle field, but they are all vanquished one after another. Then the crisis arises. At last the hero Don Angelo Specific is providentially brought to the notice of Life and is at once sent to fight the dreadful foe. The Hero valiantly kills the world-famous lieutenant of Death. It ends with a chorus sung in praise of the heroic deed of Don Angelo Specific. Is there no depth of creative power here? Is there no perception of the sublime and the beautiful? Let us pass on. What have we before us? Romance! It is a ponderous volume extending over a hundred pages; Therefore we can give only the Argument. "Certain distinguished men of Weissnichtwo formed a company under the name 'The Indian Glue Company Ld.' with a capital of 1 crore of rupees divided into 100,000,000 shares of 1 Re. each. The object of the Company is to cement the various races and castes into one nation. For this purpose it is intended to erect a huge factory and start business by manufacturing glue-material and moral. Able preachers and lecturers will be sent to every nook and corner of the land. Every shareholder at the expense of but a rupee is sure to turn out a true patriot. Mr. Sooterkin of Weissnichtwo is the originator of this scheme." Here is another romance, as nearly long as the former, but we shall take care to give the argument as shortly as possible. It is the Idylls of Arthur Panacea, King of Medicine, giving a graphic account of his marvellous and daring exploits against a legion of ills. Again what have we here? it is not a romance; it is a mock-heroic didactically disposed. This is the gist of the poem. Sir Neville Nonesuch is the unrivalled hero in the annals of modern advertisement. Judging him by any standard of morality ranging from the best to the worst, it is admitted by one and all that he has no match. Therefore 'beware all that glitters is not gold'

It is a sad but incontestable fact that a lie very often becomes a saleable commodity, and to this circumstance it is we must attribute the existence of the many and various tragedies of plagiarisms and piracies of copy right and trade mark.

Iagos are not wanting to bias the mind of the buyer against Desdemonas of the advertiser. The spectacle of the undeserved suffering of Una is heart-rending and almost equals that of King Lear. Duessas are plentiful as the proverbial blackberry and the wonder of it is that a good many of them go quite undetected, and the reason may be perhaps this: Duessa never cares to advertise herself. She is ever prowling and continuously waits to pass for Una. You go to a tradesman's shop and give your card to the attender intimating to him that you want to see Una. With the

utmost civility he takes you to Duessa almost resembling Una. Of course you are intensely gratified especially because you got her so cheap and you take your Una home. When you find Sir Paul Pipette, who is a great adept in the art of treating as his own the treasure literary or commercial wherever it may be found, openly pooh-poohing any action in trover against pain and even advertising his spurious imitation for sale ; when you find Sir Thomas Thumper of Humbagabadh grandly advertising himself in some of the dailies and offering to take into his lucrative business a partner with a round sum for capital and at the same time guaranteeing a net profit of cent per cent ; when you find Lord Sanscash in urgent need of a reliable Cash Keeper on a handsome salary with free quarters to boot who must be able to furnish cash security to the tune of several thousands of rupees ; when you find such advertisements as these do you not think they may be called the tragedies or mock-tragedies of modern advertisement ?

Follies and vanities are born with us. In every age and in every man they are found more or less. Religion condemns them and comedy exposes them to ridicule and laughter: and yet sermons and comedies but serve as so many stones thrown into the still pool of vanity ruffling its surface for a short while, and then the former level is soon attained. It is to this undeniable fact we owe the comedies of advertisements. The cartoons have now become the legitimate heir and successor of Comedy. An Aristophanes in these times need not study the manners, habits, follies, vanities, the pride and prejudice of his people. He need not produce a perfect levelled mirror reflecting nature truly. It is enough if he can etch a cartoon in some grotesque and ludicrous shape and give a symbolical significance to his production. This is one way of describing an event and exposing a person's folly. Advertisement has more poetical ways of exposing our vanities and weaknesses. Have you read the comedy of 'The Elixier of Life? The plot of the play is this: A certain doctor in one of his philanthropic moods determines to make the real wants of mankind his special study and for that purpose starts on a tour round the world. Wherever he goes he finds every one young and old ardently desiring to be *de facto* young always. In the course of the tour he goes to a country of Siddhas who thousands of years ago succeeded in discovering certain medicines and above all certain kalpa-plants which are capable of granting all our desires. But these discoveries were jealously guarded with profound secrecy which the Siddhas and their disciples alone knew. In order to learn the secret, the doctor becomes a submissive disciple of a Siddha and is obliged to stay in that country for years together. At last after learning the secret he returns home and discovers a tonic which, if taken according to his prescription, will turn in a few days a face ploughed with wrinkles into that of ever-juvenile Markandeya and the flaccid, muscles into tough metallic rods. He christens the tonic and straightway proseeds to register the name of the new citizen in the register of births kept by the Corporation of Patents. The name of the Hero is ' The elixir of life ' and the the hero is introduced to the public with the highest testimonials from rajahs and nabobs who of course keep a harem. Does not this comedy expose our early dissipations and our vanity of wishing to be always young ? Then there is the vanity of wishing to appear young always and this breeds yet another bordering on deceit, for we feel obliged to hide our natural defects caused by old age or early dissipation. In a majority of cases eti;

quette and fashion require it. No wonder then that this vanity should give birth to the comedy of 'The hair-wash' which has the miraculous property of making barren baldness grow with luxuriant vegetation and turn ripe silvery hair into et black. Then there is a weakness, in all of us called 'cupidity' which of course we will not admit for it is always dormant in us. But let us read the comedy of 'An easy road to make fortune'; it is sure to make the reader speculate like the oilmonger of the fable and even fall into a trance losing the little of the whole of his fortune. Have you seen the comedy of 'Wanted a husband' enacted in any of the fashionable theatres? You need not buy a ticket at all. Wait patiently till you get a card from a relative of yours cordially inviting you and your family to come and see the lassie who has just attained puberty. It is strange that the epilogue of every advertisement is headed 'No deceit here', by way of assuring the public that its hero at any rate cannot deceive them whatever other advertisers and their heroes are capable of doing. Hence we find in these epilogues guarantees annual or perennial, assurances supported by scores of testimonials and certificates of analyses by well-known experts of the proportionate percentages of the ingredients that go to compose the true character of the Hero. Now let us pass on to the comedies of advertisement in its broad sense. A pilgrimage to Tripathy for the fulfilment of a vow or for any other religious purpose cannot be made under the present code of fashion without tom-toms, concerts, Tanjore music, and native musical bands. If the marriage takes place in the bride's house, how is the bridegroom to go there (mind this is the first visit on the eve of the bridal day? Pride and vanity will not feel satisfied unless his first visit be in right royal fashion. The march of the bridegroom with his numberless friends and relatives and other non-descripts must more or less resemble the coronation procession of a prince going to be crowned. The length of the procession constitutes the magnitude of pomp and grandeur of the occasion, and the magnitude varies directly as the length. If the length can be measured by miles then it is superb and it is reserved for monarchs and other magnates. But so far as we subjects are concerned, only those processions whose length may be measured by either improper or proper fractions of a furlong not less than a fourth of a furlong, shall be called 'grand' in all its various degrees. But in marriage entertainments, the magnitude varies as number of guests assembled, as the number of dishes served to the guests and also as the number of presents made to the bride and the bridegroon jointly or severally. It is a case of joint and complex variation. These are some of the most important rules enjoined on us with strict penalties by the code of fashion. We are not concerned how these rules affect the rich, for in their case there is an apology for luxury, pomp and magnificence. They can always plead that what they do after all is to distribute their superfluous wealth among so many poor people and tnat their pomp served but to give employment to many a needy person. These rules make a poor man on an occasion like this adopt the motto—'Beg, borrow or steal.' In this solitary instance perhaps, he courageously acts according to the motto; and what excuse can this poor advertiser urge for his servile imitation of the rich except his own folly and vanity?

Don Quixote.

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LEGAL.

HIGH COURT, MADRAS.

Wallis J.

Suit for commission.

The plaint alleged that P a commission agent was engaged by a Zemindar Z to raise for him a sum of Rs. 3,75,000 either on the mortgage of his two estates A and B or by the sale of his Mitta C. alone. The Zemindar agreed to pay P commission at 10 p.c. on the amount settled. P thereupon took all the necessary steps to enter into negotiations with the Court of Wards for the sale to them, on behalf of the minor Zemindar of S, of the Mitta C for Rs. 3,75,000. The transaction in question become completed by the Court of Wards agreeing to purchase the Mitta on the 26th February. 1907. The defendant Z without completing the said sale, fraudulently and with the intention of defeating P's right to commission, sold the Mitta to one V. for Rs. 3,75,000. P claimed either commission or damages to the extent of Rs. 3,75,00.

The defendant Z pleaded that (1) P should have completed the contract of sale on or before the 31st December 1906 and that not having completed the sale by that time, P was not entitled to any commission (2) P did not bring about the contract of sale with the Court of Wards but Z himself did it, (3) the sale to the Court of Wards fell through as they unreasonably insisted on Z giving certain releases and that he had no intention of defrauding P or defeating his claim. When the Mitta was sold by him to V, a plea that the High Court had no jurisdiction was also raised.

Held, that the High Court had jurisdiction, as P performed his part of the contract in Madras by completing contract of sale to the Court of Wards at Madras, that after 31st December 1906 Z consented to and acquiesed in P's negotiations with the Court of Wards and Z had therefore modified the contract as to time, that it was with P that the idea of applying to the Court of Wards originated and that P had carried on all the subsequent negotiations, that the releases demanded by the Court of Wards were reasonable and Z was bound to comply with them under his contract and that there was no doubt that Z sold the Mitta to V to defeat the plaintiffs claim. (*Judgment for plaintiff with costs*).

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Benson and Krishnaswamy Aiyar J.J.

1st March, 1910.

Jurisdiction of a Revenue Court

Competency of a Revenue Court to decide, in a suit to compel a landlord to tender a *pattah*, who the tenant was.

Plaintiffs alleging they were the tenants of a certain piece of land belonging to the defendant sued the latter to tender them a *patta*. The defendant denied that plaintiffs were the tenants. The Head Assistant Collector (Narasapatam Division) gave a decree to the plaintiffs. The District Judge of Vizagapatam on appeal reversed the decree of the Lower Court and dismissed the suit on the ground that the question raised should be decided in a regular suit in a Civil Court and not in a Revenue Court.

Held that the Revenue Court had jurisdiction to decide the question (Decree of the District Judge reversed and appeal remanded for disposal according to law).

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Sir Charles arnold White, C. J.

2nd March, 1910.

Whether an Executor under a will who had accepted the office of executor and acted as such was stopped from setting up afterwards an adverse title to the property disposed of by the will.

In a regular Appeal, *Wallis* and *Miller*, JJ. differed in their views, the former

holding that an executor was not at liberty to set up an adverse title to property which had come to his hands as executor any more than a Trustee to set up an adverse title to property which he had taken possession as trustee. Miller, J., on the other hand held that there was no such estoppel in the case as the Executor would be in possession of the estate even if there was no will made by his brother.

On a reference the learned Chief Justice agreed with Mr Justice Wallis and *held* that the Executor was estopped from setting up an adverse title.

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Munro and Abdur Rahim, J. J.
8th March, 1910.

Conditional release—Provisions of the Indian Contract Act includes—

The Defendants, the Officers of Lodge GoodWill of Bellary, executed a pro-note for Rs. 7000 in favour of the Plaintiff who, when the masonic building was burnt down, executed a release promising to relinquish his claim on the note if the building was reconstructed. Plaintiff sued for the recovery of Rs. 7000 with interest thereon.

The defence was that the condition mentioned in the release having been fulfilled the release became operative and that the suit must therefore be dismissed. The District Judge of Bellary dismissed the suit with costs. On appeal to the High Court,

Held that the release relied on by the Defendants referred to the pro-note sued on and that the building having been completed the document operated as a release and that the provisions of the Indian Contract Act were wide enough to include conditional release. It was not necessary under the circumstances to go into the question of consideration.

Appeal dismissed with costs.

Munro and Abdur Rahim, J. J.
8th March, 1910.

Lease—Forfeiture of—Limitation—Termination of tenancy.

The Raja Kalahasti sued his lessee and the latter's assignee for rent for a period of six years, the claim amounting to Rs. 8,000 and odd.

The defence was that there was a termination of tenancy, there having been a forfeiture of the lease.

The District Judge of North Arcot gave a decree for a sum little less than the amount claimed holding that there was no termination of the tenancy and that the Plaintiff was entitled to rent.

Mr. *Justice Munro* held that there was a forfeiture which was acted upon, that the tenancy was determined and that subsequent acceptance of rent would not revive the tenancy but as his Lordship thought that the defendants were liable for use and occupation for at least three years prior to suit he gave a decree for about Rs. 600.

Mr. *Justice Abdur Rahim* held on the contrary that there was no surrender of interest by the lessee in favour of the Plaintiff, that the relation between the lessee and his assignee was one of partnership, that there was no determination of the tenancy and that the limitation period applicable to such a case was six years and that both the Defendants were liable for rent. His Lordship having concurred with the District judge his judgment prevailed. *Appeal dismissed with costs.*

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Benson and Krishnasawmy Iyer JJ.
Right of Appeal.

Suit by A a melcharth holder from (13 Defendant) to redeem prior mortgage to defendants. J. made a Plaintiff but plaint not amended.

Defendants denied title of J to suit properties and claimed that they belonged in Jenmam to them.

District Munsif upheld the claim of the defendants.

A. did not appeal but J. did, making the defendants and A. Respondents. Appeal dismissed by Sub-Judge on the ground that J (2nd Plaintiff) had not claimed any relief and so could not maintain appeal. J.'s title could not be declared as he had not prayed for it and he could not get possession as there was the Melcharth in favor of A. who had not appealed (8 M. L. J. 121).

Held that an appeal was maintainable by J. alone who was interested in attacking the finding of the Sub Judge as to title. J had adopted the claim of A, the 1st Plaintiff by becoming a Plaintiff. The grant of the Melcharth did not disentitle J. from himself redeeming the prior kanom. Decree of the Lower Appellate Court reversed and Appeal remanded to that Court for disposal according to law (S. A. 1435 *of* 1907).

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HIGH COURT, CALCUTTA.

Holmwood and *Chitty* J. J.

Court-Competency of a-to re-open a whole case after a limited remand.

R who formed a member of a joint Mitakshara family with B borrowed some money on a bond for his daughter's marriage. After R's death the creditor sued the widow and B and his other brothers for the loan. The defence was that there was separation and money was not borrowed for legal necessity. A Decree was given by the Munsif. On application to the High Court the Decree was set aside and the lower Court was directed to rehear the case and determine if there was legal necessity for the loan. The case was retried the Court finding that there was separation and that the money was spent for the daughter's marriage. It was contended that the Court was not competent to re-open the whole case.

Held that it was not open to the Munsif to re-try the whole case and to determine anew the question of separation or jointness. Their Lordships pointed out the inconvenience of re-opening the whole case after remand, which was confined to a particular issue. In dealing with the question of Hindu Law they said that if a daughter's marriage was not regarded as a legal necessity at any rate it was for the benefit of the joint family. Their Lordships dircharged the decree of the Lower Court and in lieu thereof passed a decree against the defendants.

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JURISDICTION UNDER THE NEW CRIMES ACT.

Certain accused were arrested on a charge of abetting the murder of M. but were discharged by the Commissioner of Police who sent them to the District Magistrate of Howrah on a charge of being members of a gang of political dacoits (S. 400 I. P. C.). An application for bail on behalf Lolit Kumar Chatterjee. Pleader of Krishnagar, one of the accused was refused by the Howrah Magistrate and an Appeal against that order was made before the Sessions Judge of Hooghly. The Howrah Magistrate when asked to send the records to the Sessions Court did not do so on the ground that he had taken cognisance of the case under the New Crimes Act which ousted the jurisdiction of the Sessions Court in matters relating to offences under that Act.

The Advocate-General for the Crown submitted that under the New Crimes Act the District Magistrate who held the enquiry and the Special Tribunal had exclusive jurisdiction; the object of the Act was to secure a speedy trial and with that view the jurisdiction of any other Court intermediate between the Magistrate and the Special Tribunal had been by

implication or expressedly taken away. Sec. 12 of the New Act had altered the ordinary course and had overridden S. 498 Cr. P. C. by ousting S. 497. S. 12 of the New Crimes Act being an antithesis of S. 497 Cr. P. C. had vested the right of granting bail exclusively in the District Magistrate. To view that S. 12 of the New act only modifies but does not annal the procedure under S. 497 Cr. P. C. would defeat the real object of the Act.

Mr. J. N. Roy in support of the bail application submitted that all proceedings relating to bail are judicial and as such appealable to the Sessions Judge and the High Court. The legislature never intended to override the sections of the Cr. P. C. and in fact the New Crimes Act had left Chapter 23 of the Cr. P. C. intact. The release of the accused would in no way affect the procedure or the question of speedy trial.

The Judge was of opinion that his jurisdiction had not been taken away by the terms of the New Act and passed an order on the application for bail to the effect that the District Magistrate of Howrah having refused to send the record to him on the ground that he had no jurisdiction, he referred the matter to the High Court.

The reference was heard by *Stephen* and *Carnduff* J. J. in the Calcutta High Court on the 8 Instant.

The Advocate-General with Mr. Orr, Deputy Legal Remembrancer opposed the reference on behalf of the Crown. Mr. A. Chaudhuri with Mr. J. N. Roy and Babu Narendra Kumar Basu appeared in support of the reference.

Before the discussion commenced Mr. Justice Stephen read out the letter of reference, a copy of which was not supplied either to the Crown or to those who appeared in support of the reference.

The Advocate-General in opening the case observed that the power of the Sessions Judge to grant bail under Chapter 39 of the Cr. P. C. was made inconsistent with the special procedure provided by the New Crime Act of 1908. The provisions of that Act as regards bail were imperative and as such provisions of the Code as regards bail which were inconsistent with section 14 of the New Act ought to be eliminated from consideration. Under the New Act the power to consider whether there was sufficient ground for enquiry or not, rested entirely with the District Magistrate and no appeal from him with regard to enquiry could be made to the Sessions Judge.

The Advocate-General next read sections, 3, 4, 5, 8, 12 and 14 of the New Act, laying the special procedure and duties incumbent on the Magistrate investigating the cases and observed that under the Act no one but the District Magistrate had the power to conduct such investigations and when there was sufficient evidence he must commit the case to the Special Tribunal of the High Court, thus the Sessions Judge had no power to revise his decision. When the special procedure had been adopted, the Sessions Judge had no jurisdiction. In ordinary cases the High Court or the Sessions Judge could call for records but in this case the Magistrate's jurisdiction was in no way inferior to that of the Sessions Judge. Under this Act, Section 498 which gave powers to Judges to grant bail remained inoperative. The intention of the legislature was to eliminate the Sessions Judge for a speedy trial.

Mr. A. Chaudhuri in support of the reference submitted that it could not be said that the Magistrate had no connection with the Sessions Judge. Under section 5 the Magistrate should commit accused to the Special Tribunal if there was sufficient evidence or discharge him if there was no evidence or commit him to the Sessions Court or any other magistrate if the offence did not come within the purview of the schedule of offences annexed to the Act. So it could not be said that the Act had taken away the jurisdiction of the Sessions Court.

Their Lordship delivered judgment on the 11th inst. upholding the Magistrate's views observing that they regretted to notice that whatever the state of the law might have been the District Magistrate had acted improperly in refusing to end the record to the Sessions Judge.

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ON FAITH.

(BY P. K. P.)

Continued from page 112.

(8). *Authority of fame or reputation.*—A certain amount of reputation more or less is essential to engender faith In speaking of any man or his works as famous or reputed or great or well-known, there are two emotions-awe and veneration-present in the mind of the speaker. These two emotions as we have already seen, are sufficient to engender faith. The essential characteristics of fame or reputation consists in the fact that the famous, or reputed and great man is known to the generality of mankind. It is this knowledge of the name of a famous great man that makes us believe what he says. The name of any man, however great he may be, cannot be universally known to all mankind that inhabit this wide globe. Abraham, Moses, Solomon, David, Jesus Christ, St. Paul and the Apostles and the early fathers of the Christian Church are names perhaps known to all Christians and exercise a great deal of influence in forming the faith of those people. But can their words have equal or any weight in the first instance, with the rest of mankind who form nearly more than two-thirds of the entire population? Similarly Manu, Vyassa, Narada and other Hindu rishis munis and sages can have little or no influence over the faith of people other than Hindus; and Confucius can have no authority over men that are not Buddhists and Chinese. Thus certain well-known names in each race or nation form and mould the faith of that particular race. These names act very powerfully on the imagination of man. There may be very many physically and morally impossible ideas associated with any particular name, still the mind will eagerly in certain cases, swallow and assimilate the whole lot of the associated ideas like a shark; just as a love-sick man venerates and even loves all that is associated with the object of his love with the same fervour like the object itself, so a mind that is truly bewitched and captivated by any reputed and great name will, in cherishing it in its fond memory, be equally captivated by any idea that is associated with that name. Thus it was that Napolean and Victory were coupled together at least for sometime, and the French soldiers throbbed to gather round his banner and felt extremely proud to serve him, whereas in the breast of the enemy something akin to panic was created by the very mention of his name. The terror of his name rose to such a pitch that an English nurse or mother used to hush a crying and troublesome baby by the mention of this well-known name during the early part of last century. But at the same time it must not be imagined that all names however well known to mankind, will exercise equal influence over man's faith. There may be some names well known to men and yet they exercise no authority or influence whatsoever on their faith; but the reason may be twofold, first because such well known men might have been liars and secondly because what they wanted their fellows to believe may be such that the mind at once rejects it as impossible and improbable.

It is the essential nature of man's limited powers-both bodily and mental—that he can become famous by studying and knowing only certain things in this mysterious world. It is utterly impossible for any single man to study the whole universe and all the objects therein with the help of his own mind. The most he can do is to select a subject or a certain number of subjects and apply his mental powers with regard to them. Thus every man is a specialist more or less and he becomes accordingly reputed and known —it may be to one or two only of his fellowmen. It is this knowledge that a man made a special study of a certain subject, that contributes to the belief of his fellowmen that he is more or less an authority on that particular subject. The mind feels at liberty in such cases and belives him, with no doubt to harass its action. Thus a priest, poet, learnedman, painter, sculptor, architect, general, statesman, doctor, lawyer, chemist, botanist, merchant, husbandmen a mechanic, a draper, a grocer, a smith, sawyer, a cook, and a host of other professors of callings and trades, are each an authority on the subject that he is specially conversant with. Every man is curiously dependant upon his fellowmen, however great or mean either for faith founded

upon authority or for faith founded upon knowledge and experience. Reputed astronomers and chemists say that the constitution of the planet Mars is similar to that of our own planet, that it is much smaller than our earth, that there were distinctly observed snowfields, snowstorms, mountain ranges, continents and large lakes; that its polar regions cover a much smaller area than our own and consequently a more desirable world to live in than ours, and that the Atmosphere is such that the temperature cannot be excessive even at the Equator, and we believe them because we know that they made the subject their special study, and the means by which they were enabled to know and affirm those truths with authority, can be very well applied even by us if we want to test their accuracy. But however great and well-known any specialist from the Bishop down to the cook, may be, it is necessary that what he wants his fellowmen to believe does not shock the mind and be repulsive to it on the score of physical and moral impossibility. To make my meaning clearer, let us suppose those learned astronomers who gave us such probable and possible information with regard to the planet Mars, suggest in the same strain that they have even discovered a road or means of communication whereby man on this planet can go thither on a holiday trip for angling and shooting in the lakes and forests of the other planet and return thither quite safe preserving this corporeal form of ours. Would we not laugh at them and rightly dub them dreamists?

3. *Nature of Hope; how it is engendered and bred by Faith and how it in. fluences Faith by strengthening and encouraging it at the same time rendering it stable and unshaken.*

It is human nature or the quality of human mind that it cannot be positively sure or certain of everything in this mysterious world. The sun regularly rises in the morning and sets every evening. This regularity or uniformity of the occurrence every morning and evening, without any break in the chain of regularity, makes the mind to believe that the same sun will rise to-morrow, or the day after or even for ever at the stated time. We do not merely hope for sunset this evening or sunrise to-morrow, but we expect and feel certain that the sun will set this evening and that it will rise on the morrow. But every occurrence or phenomenon is not susceptible of the same regularity and uniformity. In the case of the seasons, we cannot be equally sure for it is within the knowledge and experience of mankind that there had been many a winter without a drop of rain and many a summer without sunshine. In such a series of occurrences, where there had been several breaks in their uniformity, a certain amount of doubt naturally enters the mind and consequently it can only hope for its object. In speaking of the next winter, for example, we can only hope for good rain. The wind is ever variable in its strength and velocity, and consequently we cannot be positively certain or even expect it to be always favourable to us. So is the weather ever variable and uncertain. We can only hope for fine weather. Thus a certain amount of doubt or uncertainty will ever be present in our hopes. But it is the essential characteristic of hope to keep for ever the uncertainty or doubt in the back ground, and to place the desired object or idea always in the forefront of our minds. The desire for pleasure or happiness, limited or unlimited in duration, accordingly forms so very large a portion of hope, that in many instances desire and hope have become synonyms. Such is the nature of hope. Its influence upon faith is inexpressibly great. However weighty an authority may be the mind cannot accept a bare faith in any idea unless a certain amount of pleasure or happiness is coupled with faith as the reward of unhesitatingly accepting it. The idea of this reward for accepting any faith and acting in accordance therewith, works wonderfully on the imagination and influences the will or desire of the mind, and as the net result of these various influences hope of obtaining the promised reward is engendered in the mind. This hope of reward acts upon the faith if it is in any way languid or weak and nourishes and gives strength and life to the otherwise glimmering and dying faith. But it is essential to bear in mind that faith on the other hand acts likewise on hope and even in very many cases engenders hope of reward;

for without believing that reward is possible how can you desire it? The mind cannot desire an impossibility though it can know and fancy it. Hope and faith thus act and react upon each other. The former always encourages the latter, and the latter often engenders the former. There can be no hope without some vague belief in the possibility of the attainments of the desired object of hope. A fellow man is suffering from a certain illness; and we hope for his recovery. Unless we can believe that the recovery is possible, how can we be said to hope for it? If the disease that he is suffering from, has taken such a dangerous turn that no known medical aid can be of any avail, or is an incurable one, we unhesitatingly say that the recovery is hopeless and we do not believe in the possibility of its cure, judging from other similar hopeless cases. It is curious to note that in such cases though we, mere observers, pronounce his condition irrecoverable and hopeless the sufferer is sustained by the hope of recovery and in certain instances even feels quite confident of his recovery. Strictly speaking he cannot be said of hoping his recovery but earnestly desiring and wishing it. The recovery is the fixed idea or sole object of a sick man. It is difficult for any mind to get rid of its fixed idea. In the case of a sick man, the fixed idea of recovery acts upon his mind with double force, for with it is invariably associated the idea or prospect of getting rid of present pain. Therefore he tries any means for the realization of his fixed idea. He will glady submit to any operation though he feels greater pain thereby. If he is a little desperate he will even swallow poison readily. He does these things because he desires, not merely hopes, to avoid pain at any cost. Thus belief in the possibility of attaining or realizing the object desired is essential to hope, and without such a belief the mind cannot be said to hope. Hope in this sense of the word is a very potent element in the formation of our faith. I have full faith that I exist and I hope to exist to-morrow, and also for the ordinary term of human existence in this form. And I can make up my mind to believe, that I shall live to-morrow or even the whole length of the ordinary term of human existence, on very good grounds. First because I have lived so many years in the past that it is quite possible that I shall continue to do so for some time more. Secondly it is within the knowledge and experience of mankind, that generally man lives here on the average for a certain known limited period. Thus I may be said to believe pretty firmly that I shall live for sometime more. This belief is shaken by various contingencies and considerations. Man's very necessaries, the elements, threaten his existence every moment. There may be an earthquake to devour him and his brick built habitation; or a flood to float him dead or to bury him in deep waters; or a storm to toss him and his poor home making him a toy to the sporting winds; or a bolt from the blue to strike him dead slap-dash; or any accident owing to his own folly or carelessness, or rashness or any unforeseen circumstances not within his control or knowledge. Then there is the grinning king of terrors and his host of countless ills and pains, together with his special brigade of fatal epidemics that mock the skill of the doctor and his drug, to besiege and bombard the fleshy fortress of man eventually compelling him to surrender. It is curious to find that, notwithstanding these and such like common occurrences invariably proving fatal to him, he is forced to act in a manner as though he would live for an indefinite time. Every action he does, proceeds upon the unconscious assumption that he will live indefinitely long in future. I order my servant to cook and prepare my dinner. Of course I know that I should wait for some time to taste my meals. The contigency that I may perhaps die in the meantime never for once enters my head. It may be said that the interval is so very short in this instance that we can with reason act upon the assumption. But even in cases where the result or object cannot be achieved in less than a period to be counted by years, man invariably acts on the aforesaid assumption. It may take two or three years to build a substantially large and commodious residence. It may take a series of years to plant and form a picturesque garden or park. Yet we do not scruple to begin the wo[...] the score of uncertainty of our exis[...]

The reason is not far to seek. There is hope in man to actuate and spur him on to action. Man hopes to live for ever, if he can. Thus the desire to live keeps the doubt or uncertainty of life in the background for ever. But it is this very uncertainty or ignorance that acts upon the mind like a charm or spell and gives additional strength to the desire that is engendered by faith or belief. It is the same uncertainty or ignorance that breeds fear in the mind when it hopes for anything. We know positively that poison is fatal to life. We cannot therefore take poison and at the same time hope to live unless we know its effective antidote. Knowledge in this particular case shakes and roots out, as in so many hope altogether. It does not follow from this, that knowledge in all cases is injurious to hope as well as faith. Knowledge on the other hand breeds hope as well as faith and supports them by reason and experience, though there is the same uncertainty, fear and the desire of the intended result or object. Such is the nature of hope whether engendered by faith or knowledge. Without faith founded upon authority or knowledge there can be no hope of any sort. Though faith engenders and breeds hope, yet the parent in very many cases derives strength and stability from the infant hope, like the banyan that is rendered unshaken and invulnerable to any storm by the fibrous roots hanging in the air from its branches and taking deep root underground along with their mother's main root.

To be continued.

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The *Empire writes:*—'A ratepayer' asks with more or less indignation whether no newspaper will take up the scandal of the Simla Exodus. My dear Sir, we have all taken it up one after the other, at one time or another, but we might as well have whistled to the wind. Perhaps if we had all taken it up in unison in every part of India it might have had some effect, but it has unfortunately happened that when the *Empire* attacked the scandal, the *Statesman* was busy with its new machinery and when the *Statesman* took it up, *Capital* had a bad attack of coal-sharephobia—and so on. If we had all gone for the business at the same time and in the same spirit it is possible that the question would have been further advanced than it is to-day.

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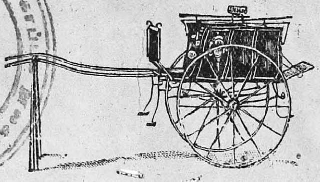

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